Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-12 and 14-26 are pending in the application, with claims 1, 5, 8, 11, and 12 being the independent claims. Claim 13 is sought to be canceled without prejudice to or disclaimer of the subject matter therein. Claims 7, 8, and 10 are sought to be amended. New claims 14-26 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections Under 35 U.S.C. § 102

The Office Action rejected claims 1-13 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,370,141 to Giordano, III *et al.* (hereinafter "Giordano"). (*See* Office Action at p. 2.)

Regarding claim 13, Applicant has canceled this claim without prejudice to or disclaimer of the subject matter therein, thereby rendering this rejection moot.

Regarding claims 1-12, Applicant respectfully traverses these rejections.

Independent claim 1 recites (emphasis added):

> A system for configuring a packet switched network appliance, comprising:
>   a server configured to store first data, to receive second data from the packet switched network appliance via a first network, and to convey third data to the packet switched network appliance via said first network; and
>   a control routine configured to execute on said server and to use said first data and said second data to produce said third data, wherein said third

data is used to configure the packet switched network appliance to have access
to a second network at an access point, wherein said second network is a
packet switched network, and wherein *a determination of said access point
includes a consideration of a distance between the packet switched network
appliance and said access point.*

Each of independent claims 5, 8, 11, and 12 recites similar features.

The Examiner, at page three of the Office Action, contends that (emphasis added):

[T]he *only* mention of "distance" within the specification of this application is
found on the first page of the specification on line 28 (PG-PUB paragraph
[004]) which makes reference to long distance calls and thus area-code(s).

Applicant disputes the contention that this is the only reference, in the present patent

application, to the idea of determining the distance between the packet switched network

appliance and the access point to the packet switched network. The paragraph at page 10,

lines 13-15 of the specification of the present patent application recites (emphasis added):

ANI is used in some embodiments by the dial-up server to identify a
user, locate the user, and so on, which information may be, useful in set-up for
determining such as *a closest ISP access number for an appliance*, and so
on.

Further reference to the idea of determining the distance between the packet switched

network appliance and the access point to the packet switched network is also found at the

paragraph from page 12, line 25 through page 13, line 8 of the specification of the present

patent application, which recites (emphasis added):

In step 37, a user plugs in a specific Internet appliance such as
appliance 15 of FIG. 1, and insures that all hardware and connections are
correct. In step 39, the user calls or the appliance dials after obtaining the
users permission (not shown) a 1-800, a 1-900, or other specific dial-up
number provided (typically by appliance vendor) with the appliance
purchased. The appliance is then connected to server 21 via normal path such
as described with respect to FIG. 1. When server 21 (establishes connection,
interfacing software recognizes the DNIS number as a number specific to a
model of appliance to be configured, and in some cases *uses ANI to establish
an identity and location of a client* in step 41. If by chance a caller is
attempting to set-up an Internet appliance at an unregistered number such as a

hotel or airport lobby, then IVR technology may be used for the purpose of establishing identity and selecting setup routines. Such variables may be expected considering a wide range of Internet appliances and possible locations for access.

The Examiner, at page three of the Office Action, also contends that:

Giordano clearly taught a determination of the access point included a consideration of a distance between the packet switched network appliance and the access point by considering the area-code required for the connection (e.g., see Giordano (Abstract, col. 1 (line 59), and col. 2 (line 13))).

Applicant also disputes this contention. The Abstract of Giordano recites:

The Internet appliance accesses an HTML page on a Web site containing configuration information for an Internet appliance, such as an Internet compatible telephone. Data from the HTML page are downloaded to the Internet appliance to modify its options or settings automatically upon accessing the HTML page, or as directed by the user. The data may be downloaded to a programmable memory in the Internet appliance and the stored data may be used to upgrade the Internet appliance. The upgrade HTML page may include information to alert the user when the new information is available regarding changes to options and settings of the Internet appliance. Alternatively, data from the Internet appliance are placed in an HTML page and the data are then uploaded to the Web site. Additional embodiments provide other functions that may be placed in an HTML page to effect some internal action in the Internet appliance, such as checking e-mail.

There is no reference to the idea of determining the distance between the packet switched network appliance and the access point to the packet switched network at the Abstract of Giordano.

The paragraph at column 1, lines 47-59 of Giordano recites (emphasis added):

A Web page may also provide other useful information. For example, various settings, such as an Internet Service Provider's (ISP) access telephone number may be stored on a Web page. However, the user must still manually configure the computer to change this information locally. *In addition to the options and settings necessary to connect to the Web, such Internet appliances as an Internet-compatible telephone also require settings for telephone functions. Such telephone functions include* service features, such as Caller ID or Call Waiting, as well as *the graphical user interface for displaying* the telephone functions, and *user profile configuration*

information, such as how to dial, *local area code*, and the user's name, address, and zip code.

There is no reference to the idea of determining the distance between the packet switched network appliance and the access point to the packet switched network at column 1, lines 47-59 of Giordano. This paragraph merely teaches that a local area code can be displayed on a graphical user interface of an Internet-compatible telephone.

The paragraph at column 2, lines 6-16 of Giordano recites (emphasis added):

> The present invention provides a method and system for automatically configuring an Internet appliance from a Web page, i.e. via an HTML page. *The invention is capable of modifying variables that include*, options, settings, and supported features, as well as the graphical user interface for the Internet appliance. Such variables may consist include, for example, Internet Service Provider (ISP) telephone numbers, *user's area code*, name, address, and zip code and such calling features as call waiting, call forwarding, and last call returned. Uniquely, the features provided by the invention are implemented by a novel put/get mechanism.

There is no reference to the idea of determining the distance between the packet switched network appliance and the access point to the packet switched network at column 2, lines 6-16 of Giordano. This paragraph merely teaches that a user's area code can be modified by the method or system of Giordano.

Thus, Giordano does not disclose, teach, or suggest a system for configuring a packet switched network appliance in which a determination of an access point to a packet switched network includes a consideration of a distance between the packet switched network appliance and the access point. Consequently, none of claims 1, 5, 8, 11, or 12 is anticipated by Giordano. Because each of claims 2-4, 6, 7, 9, and 10 depends upon claims 1, 5, or 8 and because of the distinctive features of each of claims 2-4, 6, 7, 9, and 10, each of these claims is also not anticipated by Giordano. Therefore, Applicant respectfully requests that the

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Examiner reconsider and remove his rejections of claims 1-12 under 35 U.S.C. § 102(e) and

pass these claims to allowance.

New Claims

Applicant has added new claims 14-26. Each of new claims 14-26 depends upon

independent claim 1, 5, 8, 11, or 12. As stated above, Giordano does not disclose, teach, or

suggest a system for configuring a packet switched network appliance in which a

determination of an access point to a packet switched network includes a consideration of a

distance between the packet switched network appliance and the access point. Therefore,

each of new claims 14-26 is neither anticipated by nor unpatentable over Giordano.

Specifically, each of new claims 14, 16, 18, 21, and 24 recites "wherein said distance

between the packet switched network appliance and said access point is a closest distance

between the packet switched network appliance and said access point."

Furthermore, in embodiments described at page 6, lines 18-28 of the specification of

the present patent application (emphasis added):

> According to a preferred embodiment of the present invention, a
> service is provided, including innovative apparatus and software, that enables
> users *who have purchased an Internet appliance* such as a WEB phone, for
> example, to obtain third-party assistance in *setting-up and configuring the
> device for successful operation.* Such a service is provided to a user through
> COST telephone access whereby a user dials a provided number to a special
> dial-up interactive server, and the server configures or sets-up the user's device
> in a fashion largely transparent to the user, and either automatically or semi-
> automatically. The method and apparatus therefor is detailed in enabling
> disclosure below. However it should not be construed as a limitation, that the
> example is specific to a COST network. All equivalent information can be
> gathered for a DNT-type initial connection, or any other type of system.

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In contrast, the method and system of Giordano are directed toward *reconfiguring* an

appliance that has been *preconfigured* to access the Internet. Giordano, at column 2, lines

41-56, recites (emphasis added):

> FIG. **2** is a flowchart of a method for configuring an Internet appliance in accordance with to the invention. For example, *an Internet-compatible telephone has many settings within it that control functions of the telephone. Such settings include the telephone numbers for dialing in to the ISP network*, user names, profile information, local default pages, as well as settings for handling connecting and disconnecting, time outs, and special calling features related to the telephone portion of the appliance, such as call waiting and call forwarding.
>
> *To reconfigure these* options and *settings*, the Internet-compatible telephone is connected to a Web site (**100**) containing configuration information for the telephone. The Internet-compatible telephone then accesses an HTML page (**105**) on that Web site. This HTML page is used to configure the Internet-compatible telephone.

Likewise, new claim 19, which recites "wherein the packet switched network

appliance is, prior to said configuring, unconfigured to have access to said second network" is

neither anticipated by nor unpatentable over Giordano. Each of new claims 15, 17, 22, and

25 recites features similar to new claim 19. Accordingly, each of new claims 15, 17, 22, and

25 is neither anticipated by nor unpatentable over Giordano.

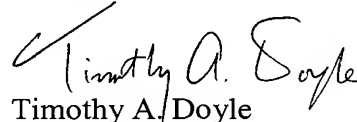Therefore, Applicant respectfully requests that each of new claims 14-26 be passed to

allowance.

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Conclusion

All of the stated grounds of rejection have been properly traversed or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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